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SERVICE DATE – JANUARY 14, 2005

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-55 (Sub-No. 614X)

CSX TRANSPORTATION, INC.–ABANDONMENT  
EXEMPTION–IN RICHMOND COUNTY, GA

Decided: January 12, 2005

CSX Transportation, Inc. (CSXT) filed a notice of exemption under 49 CFR 1152 Subpart F–Exempt Abandonments to abandon approximately 1.60 miles of railroad from Valuation Station 0+00 at milepost ANS 0.2 to Valuation Station 84+44, in Augusta, Richmond County, GA.<sup>1</sup> On July 16, 2002, a decision and notice of interim trail use or abandonment (NITU) was served that reopened the proceeding and authorized a 180-day period for Augusta-Richmond County, GA (County) to negotiate an interim trail use/rail banking agreement with CSXT, for the right-of-way involved in this proceeding. At the request of CSXT, the negotiating period was extended by decisions served on January 6, 2002, June 18, 2003, January 9, 2004, and July 14, 2004, with the latest extension expiring on December 31, 2004.

On January 6, 2005, CSXT filed a request for a 180-day extension of the negotiating period until June 29, 2005. CSXT states that it has not consummated the abandonment, has been unable to finalize negotiations with the County, and desires to continue to negotiate for interim trail use/rail banking with the County. Additionally, CSXT requests an extension of the consummation deadline until August 28, 2005.

Where, as here, the carrier has not consummated the abandonment at the end of the previously imposed negotiating period and is willing to continue trail use negotiations, the Board retains jurisdiction and the NITU negotiating period may be extended. Under the circumstances, further extension of the negotiating period is warranted. See Birt v. STB, 90 F.3d 580, 588-90 (D.C. Cir. 1996); Grantwood Village v. Missouri Pac. R.R. Co., 95 F.3d 654, 659 (8th Cir. 1996), cert. denied, 519 U.S. 1149 (1997). Accordingly, the NITU negotiating period will be extended to June 29, 2005, and the consummation notice filing deadline will be extended to August 28, 2005.

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<sup>1</sup> Notice of the exemption was served and published in the Federal Register on June 6, 2002 (67 FR 39097-98).

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. CSXT's request for an extension of the negotiating period and its request for an extension of time to exercise the abandonment authority are granted.
2. The negotiating period under the NITU is extended until June 29, 2005.
3. The authority to abandon must be exercised on or before August 28, 2005.
4. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams  
Secretary